

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
06-CV-4045 (JMR/JSM)
06-CV-4764 (JMR/JSM)

Wallace James Beaulieu)
)
 v.) ORDER
)
State of Minnesota)

On September 6, 2007, and on June 20, 2008, two separate Reports and Recommendations were issued by the Honorable Janie S. Mayeron, United States Magistrate Judge, dismissing petitioner's applications for habeas corpus relief under 28 U.S.C. § 2254 with prejudice.

Petitioner asserts that, being a member of a sovereign Indian tribe, he is neither susceptible to the state's jurisdiction for a civil commitment (06-CV-4764), nor is he required to register under Minnesota's predatory-offender registration statute (06-CV-4045). Specifically, he argues the commitment and the registration requirement are civil matters. Petitioner claims the Leech Lake Indian Tribe's sovereign immunity, together with federal law, limit the state's power over him in civil cases, and as a result, he should be released from confinement.

These cases, and particularly 06-CV-4764, raised difficult and complex questions of sovereign immunity, waiver, and the reach of federal habeas corpus. This resulted in appointment of private counsel to represent petitioner. The Court expresses its gratitude

to Gustafson Gluek PLLC for its exceptional pro bono service to petitioner and the Court.

In case 06-CV-4045, petitioner raised issues of his location and residency when he came under the state's jurisdiction. A Minnesota jury found petitioner had left the Leech Lake Reservation, and no longer lived there at the time of his November 2, 2004, arrest. The Minnesota Court of Appeals found this evidence "sufficient to support the conviction." State v. Beaulieu, No. A05-1642, 2006 WL 852139, at *3 (Minn. Ct. App. Apr. 4, 2006). Once petitioner left the reservation, the state could exercise jurisdiction. "Absent express federal law to the contrary, Indians going beyond reservation boundaries have generally been held subject to nondiscriminatory state law otherwise applicable to all citizens of the State." Mescalero Apache Tribe v. Jones, 411 U.S. 145, 148-49 (1973).

Thus, after a de novo review of the record, and based on all of the files and proceedings herein, the Court adopts the Magistrate's Reports and Recommendations.

Accordingly, IT IS ORDERED that:

1. The Report and Recommendation in case no. 06-CV-4045 [Docket No. 12] is adopted, and the petition [Docket No. 1] is dismissed with prejudice.

2. The Report and Recommendation in case no. 06-CV-4764 [Docket No. 13] is adopted, and the petition [Docket No. 1] is dismissed with prejudice.

Dated: August 28, 2008

S/ JAMES M. ROSENBAUM
JAMES M. ROSENBAUM
United States District Judge